

9 FAM 42.82

NOTES

(CT:VISA-2207; 10-21-2014)
(Office of Origin: CA/VO/L/R)

9 FAM 42.82 N1 GROUNDS FOR REVOCATION OF AN IMMIGRANT VISA (IV)

(CT:VISA-1866; 09-05-2012)

You are authorized to revoke an immigrant visa (IV) under the following rare circumstances:

- (1) You know, or after investigation are satisfied, that the visa was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or other unlawful means;
- (2) You obtain information establishing that the alien was otherwise ineligible to receive the particular visa at the time it was issued; or
- (3) You obtain information establishing that, subsequent to the issuance of the visa, a ground of ineligibility has arisen in the alien's case. Note that some ineligibilities require an advisory opinion (AO) or security advisory opinion (SAO) before a finding is made.

9 FAM 42.82 N2 REVOCATION OF IMMIGRANT VISA MUST TAKE PLACE PRIOR TO RECIPIENT'S ENTRY INTO THE UNITED STATES

(CT:VISA-2165; 08-21-2014)

- a. An immigrant visa (IV) may not be revoked once Customs and Border Protection (CBP) has admitted the visa holder into the United States.
- b. However, you must promptly report to the Post Operations Division (CA/VO/F/P) by email if it appears that an alien, subsequently determined to be ineligible for an IV, was issued an IV and has since entered the United States. CA/VO/F/P will forward this information to the Department of Homeland Security (DHS).
- c. The report submitted to CA/VO/F/P should include the following information:
 - (1) The alien's full name, including aliases;

- (2) Date and place of birth;
- (3) Country of nationality and residence;
- (4) Date of issuance of visa, date of expiration of visa, and visa symbol;
- (5) Type, number, date and place of issuance of passport;
- (6) All sections of law under which the alien is ineligible, if pertinent;
- (7) A full report of the information upon which the finding of ineligibility is based, and your comments;
- (8) If available, the means of transportation, prospective date and port of arrival, and the alien's address in the United States; and
- (9) Any other pertinent information, including date of revocation.

9 FAM 42.82 N3 REVOCATION PROCEDURES AT POST

9 FAM 42.82 N3.1 Notice of Proposed Revocation

(CT:VISA-1678; 09-07-2011)

If practicable, you must take the following three steps after deciding to revoke an immigrant visa (IV):

- (1) Notify the bearer of the IV of the proposed action as soon as possible;
- (2) Give the bearer of the IV an opportunity to show why the visa should not be revoked; and
- (3) Request that the bearer of the IV present the visa at post.

NOTE: Keep in mind that the bearer of an IV, when notified of the visa's possible revocation, is likely to attempt to travel to the United States as quickly as possible to avoid having the visa revoked. Impress upon the visa bearer that he/she has a chance to give cause why the visa should not be revoked. Additionally, impress upon the visa bearer that notice will be given to transportation carriers (see 9 FAM 42.82 N4), making it unlikely that he/she will be able to travel without first appearing at post with the visa. Finally, impress upon the visa bearer that even if he/she is able to travel to the United States, you will notify Customs and Border Protection (CBP) of the proposed revocation, and CBP will deny him/her admission into the United States.

9 FAM 42.82 N3.2 Revocation at Post

(CT:VISA-1678; 09-07-2011)

To revoke the visa when the immigrant visa (IV) bearer presents his/her visa at post, you must stamp the visa, "Cancelled," plainly across the face of the visa. Sign and date the visa with the date of revocation. In addition, make certain to make any appropriate notations of the revocation in the case files.

9 FAM 42.82 N3.3 If the Visa Bearer Does Not Appear at Post

(CT:VISA-2207; 10-21-2014)

If the bearer of the IV *has not yet been admitted to the United States by CBP, and* does not appear at post in response to your request, or if you have reason to suspect that he/she will not appear at post, you must immediately inform CA/VO/L/C by email. This notice should include the same information as the report in 9 FAM 42.82 N2.

9 FAM 42.82 N4 NOTICE TO CARRIERS

(CT:VISA-1678; 09-07-2011)

- a. Unless you have already canceled the visa per the procedures above in 9 FAM 42.82 N3, you must submit notice of revocation of the visa to the transportation carrier on which you believe the immigrant visa holder intends to travel to the United States as soon as possible.
- b. 9 FAM 42.82 Exhibit I contains an example of the notice of revocation you should send to the carrier on which you believe the alien plans to travel, in accordance with 22 CFR 42.82(d).

9 FAM 42.82 N5 REVOCATION EN ROUTE TO UNITED STATES

(CT:VISA-2165; 08-21-2014)

If the alien has already commenced a journey without intermediate stops to the United States, please contact CA/VO/L/C at VO-Revocations@state.gov, requesting a revocation. This request should include all available biographic information, visa information, as well as details outlining the potential ineligibility. CA/VO/L/C will then notify Customs and Border Protection (CBP) to flag this subject for non-admission. If you find that the alien will be stopping en route to the United States at a city in which an American consular office is located, you should request that the consular office to make every effort to contact the alien and physically cancel the visa. If the other consular officer cancels the visa this way and you have

already notified the Department of the revocation, the post responsible for physically cancelling the visa must also inform both the Department and the issuing office that it has physically cancelled the IV.

9 FAM 42.82 N6 RECONSIDERATION OF REVOCATION

(CT:VISA-2165; 08-21-2014)

- a. The alien may ask that you reconsider the revocation of his/her immigrant visa (IV). You should consider any evidence submitted by the alien or the alien's attorney or representative in connection with any request for reconsideration.
- b. If you find that the evidence is sufficient to overcome the basis for revocation, you should issue the alien a new IV.
 - (1) Be certain to make the appropriate notations of the action taken and the reasons therefore in the case files.
 - (2) If you have already sent notice to carriers, the Department, and/or the issuing office per the above guidance, send the appropriate notifications that you have issued a new IV. Posts should submit CLOK removal requests for any revocation-related entries (or contact the Department for entries with DPT refusal sites), and contact the CA Service Desk for removal of the red REVOKED banner from any applicable NIV records.
- c. Per 9 FAM 42.71 N2.2, you may not collect a fee in connection with the application for, or issuance of, a reinstated visa.